

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 20-0867V

WILLIAM ASH,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: March 5, 2025

Bridget Candace McCullough, Muller Brazil, LLP, Dresher, PA, for Petitioner.

Camille Michelle Collett, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On July 16, 2020, William Ash filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleges that he suffered a shoulder injury related to vaccine administration (“SIRVA”) following an influenza vaccination he received on November 5, 2018. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On May 8, 2024, a ruling on entitlement was issued, finding Petitioner entitled to compensation for his SIRVA. On March 4, 2025, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$60,212.38, comprised of \$60,000.00 for pain and suffering and \$212.38 for past unreimbursable expenses, plus \$4,291.12 to satisfy a State of New York Medicaid lien. Proffer at 1-2. In the Proffer, Respondent represented that Petitioner agrees with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

¹ Because this Decision contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims' website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2018).

Pursuant to the terms stated in the attached Proffer, I **award the following:**

- **A lump sum payment of \$60,212.38, comprised of \$60,000.00 for pain and suffering and \$212.38 for past unreimbursable expenses, to be paid through an ACH deposit to Petitioner's counsel's IOLTA account for prompt disbursement to Petitioner; and**
- **A lump sum payment of \$4,291.12 in the form of a check jointly payable to Petitioner, William Ash, and Department of Social Services, New York City – Human Resources Administration (HRA), Division of Liens and Recovery, P.O. Box 414799, Boston, MA 02241-4799, Case No. 945372, representing reimbursement of a Medicaid lien for services received by Petitioner from the State of New York.**

This amount represents compensation for all damages that would be available under Section 15(a).

The Clerk of Court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

WILLIAM ASH,

Petitioner,

V.

SECRETARY OF HEALTH AND
HUMAN SERVICES.

Respondent.

No. 20-867V ECF

Chief Special Master Corcoran

PROFFER ON AWARD OF COMPENSATION

On April 26, 2023, petitioner filed a Motion for a Ruling on the Record (“Motion”) arguing that he has established entitlement to compensation for a shoulder injury related to vaccine administration. ECF No. 47. Respondent filed his Response to Petitioner’s Motion on June 29, 2023, recommending that entitlement to compensation be denied. ECF No. 48. On May 8, 2024, the Court issued a Ruling on Entitlement, finding that petitioner is entitled to compensation.¹ ECF No. 49.

I. Compensation for Vaccine Injury-Related Items

A. Pain and Suffering

Based upon the evidence of record, respondent proffers that petitioner should be awarded a lump sum of **\$60,000.00** for pain and suffering, in the form of an ACH deposit to petitioner's counsel's IOLTA account for prompt disbursement to petitioner. Petitioner agrees.

¹ Respondent has no objection to the amount of the proffered award of damages set forth herein. Assuming the Chief Special Master issues a damages decision in conformity with this proffer, respondent waives his right to seek review of such damages decision. However, respondent reserves his right, pursuant to 42 U.S.C. § 300aa-12(e), to seek review of the Chief Special Master's July 5, 2022, entitlement decision.

B. Past Unreimbursable Expenses

Evidence supplied by petitioner documents that he incurred past unreimbursable expenses related to his vaccine-related injury. Respondent proffers that petitioner should be awarded past unreimbursable expenses in the amount of **\$212.38**. *See* 42 U.S.C. § 300aa-15(a)(1)(B). Petitioner agrees.

These amounts represent all elements of compensation to which petitioner is entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

C. Medicaid Lien

Respondent proffers that petitioner should be awarded funds to satisfy the State of New York Medicaid lien in the amount of **\$4,291.12**, which represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action the State of New York may have against any individual as a result of any Medicaid payments the State of New York has made to or on behalf of petitioner from the date of his eligibility for benefits through the date of judgment in this case as a result of his alleged vaccine-related injury suffered on or about November 5, 2018 under Title XIX of the Social Security Act.

The above amounts represent all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

II. Form of the Award

The parties recommend that compensation provided to petitioner should be made through two lump sum payments described below, and request that the Chief Special Master's decision and the Court's judgment award the following:²

- A. A lump sum payment of **\$60,212.38, to be paid through an ACH deposit to petitioner's counsel's IOLTA account for prompt disbursement to petitioner;**

² Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future medical expenses, future pain and suffering, and future lost wages.

- B. A lump sum payment of **\$4,291.12**, representing compensation for satisfaction of the State of New York Medicaid lien, in the form of a check payable jointly to petitioner and:

DEPARTMENT OF SOCIAL SERVICES
New York City - Human Resources Administration (HRA)
Division of Liens and Recovery
P.O. Box 414799
Boston, MA 02241-4799
Case No: 945372

Petitioner agrees to endorse the check to DEPARTMENT OF SOCIAL SERVICES for satisfaction of the Medicaid lien.

Petitioner is a competent adult. Evidence of guardianship is not required in this case.

Respectfully submitted,

YAAKOV M. ROTH
Acting Assistant Attorney General

C. SALVATORE D’ALESSIO
Director
Torts Branch, Civil Division

HEATHER A. PEARLMAN
Deputy Director
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s/Camille M. Collett
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Date: March 4, 2025